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9 United States of America

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 SOUTHERN DIVISION

13 UNITED STATES OF AMERICA,) Case No. SA CR 12-242-DOC
14 Plaintiff,)
15 v.) PLEA AGREEMENT FOR DEFENDANT
16 ARASH DURRANI,) ARASH DURRANI
17 Defendant.)
18)
19)
20)

21 1. This constitutes the plea agreement between Arash
22 Durrani ("defendant") and the United States Attorney's Office
23 for the Central District of California ("the USAO") in the
24 above-captioned case. This agreement is limited to the USAO and
25 cannot bind any other federal, state, local, or foreign
26 prosecuting, enforcement, administrative, or regulatory
27 authorities.

28 / / /

DEFENDANT'S OBLIGATIONS

2. Defendant agrees to:

a) At the earliest opportunity requested by the USAO and provided by the Court, appear and plead guilty to the single-count Indictment, which charges a violation of 49 U.S.C. § 46504 (interference with flight crew members and attendants).

b) Not contest facts agreed to in this agreement.

c) Abide by all agreements regarding sentencing contained in this agreement.

d) Appear for all court appearances, surrender as

ordered for service of sentence, obey all conditions of any bond, and obey any other ongoing court order in this matter.

e) Not commit any crime; however, offenses that

would be excluded for sentencing purposes under United States Sentencing Guidelines ("U.S.S.G." or "Sentencing Guidelines") § 4A1.2(c) are not within the scope of this agreement.

f) Be truthful at all times with Pretrial Services, the United States Probation Office, and the Court.

g) Not seek the discharge of any restitution obligation, in whole or in part, in any present or future bankruptcy proceeding.

h) Pay the applicable special assessment at or
the time of sentencing unless defendant lacks the ability
and prior to sentencing submits a completed financial
statement on a form to be provided by the USAO.

THE USAO'S OBLIGATIONS

3. The USAO agrees to:

a) Not contest facts agreed to in this agreement.

b) Abide by all agreements regarding sentencing factors contained in this agreement.

c) At the time of sentencing, provided that defendant demonstrates an acceptance of responsibility for the offense up to and including the time of sentencing, recommend a two-level reduction in the applicable Sentencing Guidelines offense level, pursuant to U.S.S.G. § 3E1.1, and recommend and, if necessary, move for an additional one-level reduction if available under that section.

d) Recommend that defendant be sentenced to a term of imprisonment no higher than the low end of the applicable Sentencing Guidelines range, provided that the offense level used by the Court to determine that range is 15 or higher and provided that the Court does not depart downward in criminal history category or offense level. For purposes of this agreement, the low end of the Sentencing Guidelines range is that defined by the Sentencing Table in U.S.S.G. Chapter 5, Part A.

NATURE OF THE OFFENSE

4. Defendant understands that for defendant to be guilty of the crime charged in the Indictment, that is, interference with flight crew members and attendants, in violation of Title 49, United States Code, Section 46504, the following must be true: (1) defendant was on an aircraft in the special aircraft jurisdiction of the United States; (2) defendant knowingly assaulted or intimidated a flight attendant or flight crew member; and (3) defendant interfered with the performance of the duties or lessened the ability of the flight attendant or flight

1 crew to perform those duties, or attempted or conspired to do
2 such an act.

3 PENALTIES AND RESTITUTION

4 5. Defendant understands that the statutory maximum
5 sentence that the Court can impose for a violation of Title 49,
6 United States Code, Section 46504 as charged in the Indictment
7 is: 20 years' imprisonment; a three-year period of supervised
8 release; a fine of \$250,000 or twice the gross gain or gross
9 loss resulting from the offense, whichever is greatest; and a
10 mandatory special assessment of \$100.

11 6. Defendant agrees to make full restitution to the
12 victims of the offense to which defendant is pleading guilty.
13 Defendant agrees that, in return for the USAO's compliance with
14 its obligations under this agreement, the Court may order
15 restitution to persons other than the victims of the offense to
16 which defendant is pleading guilty. In particular, defendant
17 agrees that the Court may order restitution to any victim of any
18 of the following for any losses suffered by that victim as a
19 result: any relevant conduct, as defined in U.S.S.G. § 1B1.3,
20 in connection with the offense to which defendant is pleading
21 guilty.

22 7. Defendant understands that supervised release is a
23 period of time following imprisonment during which defendant
24 will be subject to various restrictions and requirements.
25 Defendant understands that if defendant violates one or more of
26 the conditions of any supervised release imposed, defendant may
27 be returned to prison for all or part of the term of supervised
28

1 release authorized by statute for the offense that resulted in
2 the term of supervised release.

3 8. Defendant understands that, by pleading guilty,
4 defendant may be giving up valuable government benefits and
5 valuable civic rights, such as the right to vote, the right to
6 possess a firearm, the right to hold office, and the right to
7 serve on a jury. Defendant understands that once the Court
8 accepts defendant's guilty plea, it will be a federal felony for
9 defendant to possess a firearm or ammunition. Defendant
10 understands that the conviction in this case may also subject
11 defendant to various other collateral consequences, including
12 but not limited to revocation of probation, parole, or
13 supervised release in another case and suspension or revocation
14 of a professional license. Defendant understands that
15 unanticipated collateral consequences will not serve as grounds
16 to withdraw defendant's guilty plea.

17 9. Defendant understands that, if defendant is not a
18 United States citizen, the felony conviction in this case may
19 subject defendant to removal, also known as deportation, which
20 may, under some circumstances, be mandatory. The Court cannot,
21 and defendant's attorney also may not be able to, advise
22 defendant fully regarding the immigration consequences of the
23 felony conviction in this case. Defendant understands that
24 unexpected immigration consequences will not serve as grounds to
25 withdraw defendant's guilty plea.

FACTUAL BASIS

27 10. Defendant admits that defendant is, in fact, guilty of
28 the offense to which defendant is agreeing to plead guilty.

1 Defendant and the USAO agree to the statement of facts provided
2 below and agree that this statement of facts is sufficient to
3 support a plea of guilty to the charge described in this
4 agreement but is not meant to be a complete recitation of all
5 facts relevant to the underlying criminal conduct or all facts
6 known to either party that relate to that conduct.

7 On September 25, 2012, while a passenger on board
8 United Airlines Flight number 473 from Chicago O'Hare
9 International Airport to John Wayne International Airport,
10 defendant knowingly interfered with the performance of the
11 duties of the flight crew members and flight attendants,
12 and lessened the ability of the flight crew members and
13 flight attendants to perform their duties, by assaulting
14 and intimidating the flight attendants and other
15 passengers. Specifically, while the aircraft was in
16 flight, defendant engaged in the following belligerent,
17 uncooperative, and violent behavior toward the flight
18 attendants and fellow passengers:

19 (1) Defendant repeatedly ignored and refused the
20 instructions of the flight attendants to remain in his
21 assigned seat, with moments of temporary compliance;

22 (2) Defendant grabbed the arm of a female flight
23 attendant in order to distract her and gain her
24 attention. He also kissed a female passenger on the
25 head and asked a female passenger if she wanted to sit
26 on his lap;

(3) Defendant grabbed his backpack and started walking toward the front of the aircraft while yelling, "I want to go home now";

(4) When the flight crew refused to serve defendant alcohol, defendant became more unruly;

(5) Defendant knocked a fellow passenger's beverage off the passenger's tray table, pointed his finger in the passenger's face, and threatened to "kick his fucking ass"; and

(6) When passengers attempted to and eventually did physically restrain defendant, defendant resisted their attempts and spit at them and bit them.

Defendant also screamed threats at the passengers once he was restrained.

As a result of defendant's conduct, the pilot notified Air Traffic Control ("ATC") that he had a Level 2 Disturbance (physically abusive behavior) on board his aircraft. Further, after consultation with the pilot, two medical doctors forcibly sedated defendant. Thereafter, the pilot notified ATC that defendant was restrained and requested law enforcement assistance at John Wayne Airport to remove defendant from the plane.

SENTENCING FACTORS

11. Defendant understands that in determining defendant's sentence the Court is required to calculate the applicable Sentencing Guidelines range and to consider that range, possible departures under the Sentencing Guidelines, and the other sentencing factors set forth in 18 U.S.C. § 3553(a). Defendant

1 understands that the Sentencing Guidelines are advisory only,
2 that defendant cannot have any expectation of receiving a
3 sentence within the Sentencing Guidelines range, and that after
4 considering the Sentencing Guidelines and the other § 3553(a)
5 factors, the Court will be free to exercise its discretion to
6 impose any sentence it finds appropriate up to the maximum set
7 by statute for the crime of conviction.

8 12. Except as set forth in paragraph 3(c) above, defendant
9 and the USAO have no agreement as to the appropriate sentence or
10 the applicable Sentencing Guidelines factors. Except as set
11 forth in paragraph 3(c), both parties reserve the right to seek
12 any sentence within the statutory maximum, and to argue for any
13 criminal history score and category, base offense level,
14 specific offense characteristics, adjustments, departures, and
15 variances.

16 13. Defendant understands that there is no agreement as to
17 defendant's criminal history or criminal history category.

18 14. Defendant and the USAO, pursuant to the factors set
19 forth in 18 U.S.C. § 3553(a)(1), (a)(2), (a)(3), (a)(6), and
20 (a)(7), further reserve the right to argue for a sentence
21 outside the sentencing range established by the Sentencing
22 Guidelines.

WAIVER OF CONSTITUTIONAL RIGHTS

24 15. Defendant understands that by pleading guilty,
25 defendant gives up the following rights:

- a) The right to persist in a plea of not guilty.
- b) The right to a speedy and public trial by jury.

1 c) The right to be represented by counsel - and if
2 necessary have the court appoint counsel - at trial. Defendant
3 understands, however, that, defendant retains the right to be
4 represented by counsel - and if necessary have the court appoint
5 counsel - at every other stage of the proceeding.

6 d) The right to be presumed innocent and to have the
7 burden of proof placed on the government to prove defendant
8 guilty beyond a reasonable doubt.

9 e) The right to confront and cross-examine witnesses
10 against defendant.

11 f) The right to testify and to present evidence in
12 opposition to the charges, including the right to compel the
13 attendance of witnesses to testify.

14 g) The right not to be compelled to testify, and, if
15 defendant chose not to testify or present evidence, to have that
16 choice not be used against defendant.

17 h) Any and all rights to pursue any affirmative
18 defenses, Fourth Amendment or Fifth Amendment claims, and other
19 pretrial motions that have been filed or could be filed.

20 WAIVER OF APPEAL OF CONVICTION

21 16. Defendant understands that, with the exception of an
22 appeal based on a claim that defendant's guilty plea was
23 involuntary, by pleading guilty defendant is waiving and giving
24 up any right to appeal defendant's conviction on the offense to
25 which defendant is pleading guilty.

26 LIMITED MUTUAL WAIVER OF APPEAL OF SENTENCE

27 17. Defendant agrees that, provided the Court imposes a
28 term of imprisonment within or below the range corresponding to

1 a total offense level of 7 and the criminal history category
2 calculated by the Court, defendant gives up the right to appeal
3 all of the following: (a) the procedures and calculations used
4 to determine and impose any portion of the sentence, with the
5 exception of the Court's calculation of defendant's criminal
6 history category; (b) the term of imprisonment imposed by the
7 Court, except to the extent it depends on the Court's
8 calculation of defendant's criminal history category; (c) the
9 term of probation or supervised release imposed by the Court,
10 provided it is within the statutory maximum; and (d) any of the
11 following conditions of probation or supervised release imposed
12 by the Court: the standard conditions set forth in General
13 Orders 318, 01-05, and/or 05-02 of this Court; the drug testing
14 conditions mandated by 18 U.S.C. §§ 3563(a)(5) and 3583(d); and
15 the alcohol and drug use conditions authorized by 18 U.S.C.
16 § 3563(b)(7).

17 18. The USAO agrees that, provided (a) all portions of the
18 sentence are at or below the statutory maximum specified above
19 and (b) the Court imposes a term of imprisonment within or above
20 the range corresponding to an offense level of 15 and the
21 criminal history category calculated by the Court, the USAO
22 gives up its right to appeal any portion of the sentence, with
23 the exception that the USAO reserves the right to appeal the
24 amount of restitution ordered.

25 RESULT OF WITHDRAWAL OF GUILTY PLEA

26 19. Defendant agrees that if, after entering a guilty plea
27 pursuant to this agreement, defendant seeks to withdraw and
28 succeeds in withdrawing defendant's guilty plea on any basis

1 other than a claim and finding that entry into this plea
2 agreement was involuntary, then the USAO will be relieved of all
3 of its obligations under this agreement.

4 EFFECTIVE DATE OF AGREEMENT

5 20. This agreement is effective upon signature and
6 execution of all required certifications by defendant,
7 defendant's counsel, and an Assistant United States Attorney.

8 BREACH OF AGREEMENT

9 21. Defendant agrees that if defendant, at any time after
10 the signature of this agreement and execution of all required
11 certifications by defendant, defendant's counsel, and an
12 Assistant United States Attorney, knowingly violates or fails to
13 perform any of defendant's obligations under this agreement ("a
14 breach"), the USAO may declare this agreement breached. All of
15 defendant's obligations are material, a single breach of this
16 agreement is sufficient for the USAO to declare a breach, and
17 defendant shall not be deemed to have cured a breach without the
18 express agreement of the USAO in writing. If the USAO declares
19 this agreement breached, and the Court finds such a breach to
20 have occurred, then: (a) if defendant has previously entered a
21 guilty plea pursuant to this agreement, defendant will not be
22 able to withdraw the guilty plea, and (b) the USAO will be
23 relieved of all its obligations under this agreement.

24 COURT AND PROBATION OFFICE NOT PARTIES

25 22. Defendant understands that the Court and the United
26 States Probation Office are not parties to this agreement and
27 need not accept any of the USAO's sentencing recommendations or
28 the parties' agreements to facts or sentencing factors.

1 23. Defendant understands that both defendant and the USAO
2 are free to: (a) supplement the facts by supplying relevant
3 information to the United States Probation Office and the Court,
4 (b) correct any and all factual misstatements relating to the
5 Court's Sentencing Guidelines calculations and determination of
6 sentence, and (c) argue on appeal and collateral review that the
7 Court's Sentencing Guidelines calculations and the sentence it
8 chooses to impose are not error. While this paragraph permits
9 both the USAO and defendant to submit full and complete factual
10 information to the United States Probation Office and the Court,
11 even if that factual information may be viewed as inconsistent
12 with the facts agreed to in this agreement, this paragraph does
13 not affect defendant's and the USAO's obligations not to contest
14 the facts agreed to in this agreement.

15 24. Defendant understands that even if the Court ignores
16 any sentencing recommendation, finds facts or reaches
17 conclusions different from those agreed to, and/or imposes any
18 sentence up to the maximum established by statute, defendant
19 cannot, for that reason, withdraw defendant's guilty plea, and
20 defendant will remain bound to fulfill all defendant's
21 obligations under this agreement. Defendant understands that no
22 one -- not the prosecutor, defendant's attorney, or the Court --
23 can make a binding prediction or promise regarding the sentence
24 defendant will receive, except that it will be within the
25 statutory maximum.

NO ADDITIONAL AGREEMENTS

27 25. Defendant understands that, except as set forth
28 herein, there are no promises, understandings, or agreements

1 between the USAO and defendant or defendant's attorney, and that
2 no additional promise, understanding, or agreement may be
3 entered into unless in a writing signed by all parties or on the
4 record in court.

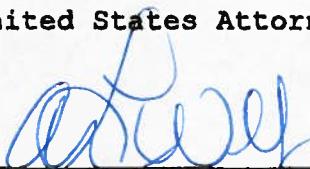
5 PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

6 26. The parties agree that this agreement will be
7 considered part of the record of defendant's guilty plea hearing
8 as if the entire agreement had been read into the record of the
9 proceeding.

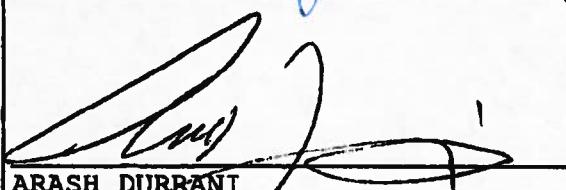
10 AGREED AND ACCEPTED

11 UNITED STATES ATTORNEY'S OFFICE
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

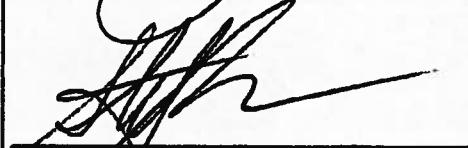
13 ANDRÉ BIROTTÉ JR.
14 United States Attorney

15 
16 ANN LUOTTO WOLF
17 Assistant United States Attorney

5/21/13
Date

18 
19 ARASH DURRANI
20 Defendant

5/20/13
Date

21 
22 STEFAN E. SACKS
23 Attorney for Defendant
24 Arash Durrani

5/20/13
Date

CERTIFICATION OF DEFENDANT

I have read this agreement in its entirety. I have had enough time to review and consider this agreement, and I have carefully and thoroughly discussed every part of it with my attorney. I understand the terms of this agreement, and I voluntarily agree to those terms. I have discussed the evidence with my attorney, and my attorney has advised me of my rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. No promises, inducements, or representations of any kind have been made to me other than those contained in this agreement. No one has threatened or forced me in any way to enter into this agreement. I am satisfied with the representation of my attorney in this matter, and I am pleading guilty because I am guilty of the charge and wish to take advantage of the promises set forth in this agreement, and not for any other reason.

~~ARASH DURRANI~~
Defendant

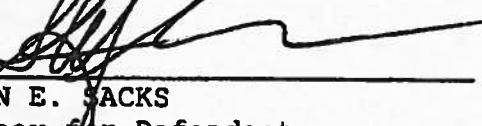
5/20/13
Date

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CERTIFICATION OF DEFENDANT'S ATTORNEY

2 I am Arash Durrani's attorney. I have carefully and
3 thoroughly discussed every part of this agreement with my
4 client. Further, I have fully advised my client of his rights,
5 of possible pretrial motions that might be filed, of possible
6 defenses that might be asserted either prior to or at trial, of
7 the sentencing factors set forth in 18 U.S.C. § 3553(a), of
8 relevant Sentencing Guidelines provisions, and of the
9 consequences of entering into this agreement. To my knowledge:
10 no promises, inducements, or representations of any kind have
11 been made to my client other than those contained in this
12 agreement; no one has threatened or forced my client in any way
13 to enter into this agreement; my client's decision to enter into
14 this agreement is an informed and voluntary one; and the factual
15 basis set forth in this agreement is sufficient to support my
16 client's entry of a guilty plea pursuant to this agreement.

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STEFAN E. SACKS
Attorney for Defendant
Arash Durrani

5/20/13
Date

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